

Remarks

1) Claims 1-7, 9-21 are presented, of which claims 1, 12, 17 are independent, each of claims 2-7, 9-11 depends directly or indirectly on claim 1, each of claims 13-16 depends directly or indirectly on claim 12 and each of claims 18-21 depends directly or indirectly on claim 17.

The independent claims are being amended to define the invention more precisely. After the amendment, each of the independent claims 1, 12, 17 claims software which meets an existing standard so that it/they can be used on a computer which also meets that existing standard and without modification thereof. The computer comprises no hardware specific to the rightful or authorised user of an authorising software, for directly or indirectly authorising use of other software which being protected from unauthorised use, thereon .

Each independent claim also claims the authorising software which being for, when executed, authorising the protected software, to be used on the standard computer ; and, an identity software(claims 1 or 2) or means(claim 17) for use on the standard computer to provide an identity information of the rightful or authorised user of the authorising software, the identity information being for to be authenticated by a remote computer in order for the remote computer to perform operation(s) for which the rightful or authorised user has to be responsible .

Claim 1 as amended, claims the authorising software and, in particular, specifies that the identity software has no effective protection against unauthorised use and that use of protected software on the computer will be authorised if the identity software is determined as being present on the computer by the authorising software and that the presence of the identity software on the computer is being determined without a user responsible operation being performed by the remote computer.

As the authorising software, when being executed, will not authorise use of the protected software, without the presence of the identity software which has no effective protection against unauthorised use thereof and the identity provided by the

identity software being for causing operation(s) the rightful or authorised user has to be responsible, the rightful or authorised user will of course, as mentioned in the specification, P.2, third paragraph, not copy his identity software to anyone else in order that the latter can use the authorising software. Therefore, a rightful or an authorised user is discouraged, by the present invention as defined by claim 1 as amended, to provide a functional copy of the authorising software to any one else.

Claim 12 as amended, claims a software comprising the identity software and the authorising software and, in particular, specifies that they are contained in that software in such a manner that the authorising software is prevented from being copied therefrom individually ; and that the identity software has no individual and effective protection, provided by execution of the software, against unauthorised use ; and that the software which being protected from unauthorised use is a purchased software . The rightful or authorised user will of course, not copy the software which comprising the authorising software and identity software to any one else in order that the latter can has a copy of his authorising software for unauthorised use thereof.

Claim 17 as amended, claims the authorising software and, in particular, specifies that a same encryption algorithm used in the means for providing an identity information, exists in the authorising software and being accessible or when the authorising software being executed, usable by a user. The rightful or unauthorised user will of course, not copy his authorising software to someone else, because in doing so, he is equivalent to providing that means for use by someone else.

Thus, the invention as defined by independent claims 1, 12, 17 as amended is directed to an authorising software which use the presence of the identity software or a functional equivalent thereof, with no individual protection against unauthorised use, as a precondition for authorising use of protected software. The rightful or authorised user will of course be discouraged by the present invention, from copying a functional copy of his/her authorising software to any one else. In this way, use of the protected software by an unauthorised user is being prevented. And the present invention is

neither disclosed nor suggested by the prior art references.

2) Please note that :

a) I have amended the "means for providing encrypted identity" in claim 1 as "identity software", because authorising use of protected software at the present of hardware specific to a user is a very common skill in the art and claim 1, if not so amended, will certainly be met by prior art found in a search performed by the Examiner later, which should be unnecessary and a waste of time to me and the Examiner.

b) the limitation in the definition of identity software "with no effective protection against unauthorised use"(claim 1) or "with no individual and effective protection provided by execution of a software against unauthorised use"(claim 12) conforms to the claims before the amendment because there is no indication that the functions originally readable on the claims being protected by any means against unauthorised use.

c) the "standard computer" as claimed by independent claims 1, 12, 17 is readable from the originally filed specification, in particular, P.3, "Detailed description of the preferred embodiments", first paragraph, line 3, inwhich "IBM PC computer" is a standard computer.

d) the "encrypted identity" in independent claims 1, 12, 17 have been changed to "identity information", because the term "encrypted identity" is also used in their dependent claims 9-11, 13-15, 19-21 for representing a different identity of user and with a different purpose.

3) In the first office action, item 3, claims 1-7 and 9-21 are rejected under 35 U.S.C. 101 because they are non-statutory. The Examiner states that "claims 1-7 and 9-21 constitute Functional Descriptive material, i.e., a computer program". The Examiner further states that "a series of steps to be performed on a general, non-

specific, computer and products for performing a process on a general, non-specific computer is not statutory matter." and that "Claims must define the physical structure of the machine or manufacture in terms of its hardware or hardware and "specific software" and that "there are no independent physical acts that can be construed as significant pre- or post-computer process activity." , "the claimed steps are abstract manipulations without any limitation to a practical application."

The rejections are respectfully traversed. The independent claims are being amended to define the invention more precisely. The software claimed by the amended claims is 1) not computer listings ; 2) is not to be use on a general, non-specific, computer and is to be used on a computer which being made to meet an existing standard such that any software product(s) meeting said standard can be used thereon and without modification thereof ; 3) is defined in terms of hardware and "specific software", claims 1, 17 claim authorising software, stored in a device or physically on a medium and claim 12 claims software, stored in a device or physically on a medium. And, as will be discussed herein below, the invention as defined by the amended claims has a practical application which conforms to the originally filed specification.

Accordingly, withdrawal of the rejections of claims 1-7 and 9-21 under 35 U.S.C. 101 are respectfully requested.

4) In the first office action, item 4, claims 1-7 and 9-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner states that, "The claims are full of grammatical errors and dangling clauses which make the scope of the claims, indeterminate."

The rejections are respectfully traversed. The independent claims and dependent claims are being amended to eliminate grammatical errors and dangling clauses therein, so as to make the scope of the claims determinable.

Accordingly, withdrawal of the rejections of claims 1-7 and 9-21 under 35 U.S.C. 112, second paragraph, are respectfully requested.

5) In the first office action, item 5, claims 1-7 and 9-21 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The Examiner states that "The claims are narrative in form..." and that " The structure must be organised and correlated in such a manner as to present a complete operative device" and that "The claim(s) must be in one sentence form only".

The rejections are respectfully traversed. The independent claims and dependent claims are being amended to not be in narrative form and in one sentence form. The amended claims do present a complete operative device.

Accordingly, withdrawal of the rejections of claims 1-7 and 9-21 under 35 U.S.C. 112, second paragraph, are respectfully requested.

6) In the first office action, item 8, claims 1-7 and 9-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Ananda(645) .

The rejections are respectfully traversed.

Ananda, as read on all the claims thereof, describes a method of securely renting software, and as read on claim 1, merely teaches of permitting continuous execution of application software in a first computer if authorisation is obtained from a second computer continuously, and execution will be terminated if otherwise. Claim 11 claims a similar method and in particular, specifies a header program for, when being executed, transmitting, from the first computer, a password verification request to the second computer, and the second computer will return a dynamic password in response, and the header program terminates the application program if the dynamic password received does not match another dynamic password it generated previously. And, as read on col. 23, lines 44-53, "The invention enables ... monitor the time period

when a particular application software is executed by a user record the pertinent information regarding the execution of application software for billing and accounting purpose".

thus, Ananda is directed to a method for monitoring the time period when a particular software is being executed by a user, so as to bill the user for the rental payment. While Ananda's method is useful for protecting a rental software from unauthorised use, it cannot protect a purchased software because a purchased software has to be usable by its rightful or authorised user unlimitedly, therefore even if a rightful or authorised user unauthorisedly copy his purchased software to someone else, he is not liable to any additional payment for the additional use of that unauthorised copy by that unauthorised user, even if the time period is being recorded.

There is no disclosure in Ananda, including the claims thereof, which would suggest or disclose the invention as defined by independent claims 1, 12, 17 as amended, that is, as mentioned above, an authorising software which use the presence of the identity software or a functional equivalent thereof, with no individual protection against unauthorised use, as a precondition for authorising use of protected software. And, the invention as defined by the amended independent claims, is for protecting purchased software(claims 1, 12, 17) or software for use of which payment, including rental payment, is being made(claims 1), from used by an unauthorised user.

Even though the password verification request of Ananda can be understood as for to be authenticated by the second computer in order that operation such as recording time period of use of the application software can be performed, and for directly authorising payment from a user's account or billing the user thereafter, and that the header program meets the definition of identity software of claim 1 as amended, this identity software of Ananda is being used to provide identity information of its user, for causing operation(s) such as making payment from a user account for software rental, which being a user responsible operation, in order use of the application software be authorised.

The requirement of claim 1 as amended, that is, "the presence of the identity software is being determined and being used as a precondition, by an authorising software, for authorising use of protected software, without actually using the identity software to cause operation(s) for which the rightful or authorised user of the authorising software has to be responsible", is not met by Ananda.

Claim 12 as amended, is directed to protection of purchased software from use by an unauthorised user, not the rightful or authorised user, and as mentioned above, Ananda merely teaches of a method of securely renting software and the method cannot be used on a purchased software and Ananda is therefore inapposite to the invention as defined by claim 12 as amended.

Claim 17 as amended, requires a same encryption algorithm used by a means for providing an identity information of the rightful or authorised user of the authorising software, exists in the authorising software and being accessible or when the authorising software being executed, usable by a user.

This is neither disclosed nor suggested by Ananda, including the claims thereof. Even if in Ananda's header program, a same algorithm, if there is any, was to be used to generate the request which meets the definition of "identity information" in claim 17 as amended, and also to be used to generate commands, if there is any, for authorising use of the rental application software, such an algorithm, in Ananda's header program, could not be accessible or when the header program being executed, usable by a user, otherwise the user might use it for authorising the use of the protected rental software unlimitedly and without making any payment. The requirement of claim 17 as amended, that is, "the algorithm exists in the authorising software for providing identity information of the rightful or authorised user of the authorising software, being accessible or when the authorising software being executed, usable by a user", so as to ensure the rightful or authorise user will not copy the authorising software to anyone else, as mentioned above, is not being met by Ananda's header program.

Accordingly, withdrawal of the rejections of claims 1-7 and 9-21 under 35 U.S.C. 102(e) as being anticipated by Ananda(645) are respectfully requested.

7) In the first office action, item 7, claims 1-7 and 9-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Stringer(429) .

Stringer et al., as read on col.9, line 43-col.10 line 1, merely teach of, with no mention therein as to how payment is being made, a method which being given to a disabled product for generating a product identification number and displayed the number to a user so that the user can use it to obtain an enable code through telephone, for enabling the disabled product or additional trial use.

This is a very cumbersome procedure for user to operate and is merely for protecting a trial version before payment is made and once payment is being made and the purchased product is being enabled to provide full function use, it can no longer protected the product from unauthorised use or copying.

There is no disclosure in Stringer et al., including the claims thereof, which would suggest or disclose the invention as defined by independent claims 1, 12, 17 as amended, that is, as mentioned above, an authorising software which use the presence of the identity software or a functional equivalent thereof, with no individual protection against unauthorised use, as a precondition for authorising use of protected software. And, the invention as defined by the amended independent claims, is for protecting purchased software(claims 1, 12, 17) or software for use of which payment, including rental payment, is being made(claims 1), from used by an unauthorised user.

There is no software in Stringer et al. which would meet the requirement of "identity software" in claim 1 as amended and consequently, no "determination of presence thereof as a precondition for authorising use of protected software on a computer", and this is also required by claim1 as amended. Thus, the present invention as defined by independent claim 1 as amended is neither disclosed nor suggested by Stringer et al.

Claim 12 as amended, is directed to protection of purchased software from use by an unauthorised user, not the rightful or authorised user, and Stringer et al.'s method is for protection of a trial version and of course, a trial version has to be protected from being used unlimitedly by any user and such protection cannot be used on a purchased software because the rightful or authorised user thereof has the right to use the software unlimitedly and Stringer et al. is therefore inapposite to claim 12 as amended.

Claim 17 as amended, requires a same encryption algorithm used in a means for providing an identity information of the rightful or authorised user of the authorising software, exists in the authorising software and being accessible or when the authorising software being executed, usable by a user. There is no disclosure in Stringer et al. which would meet the requirement of "means for providing" in claim 17 as amended and thus, the present invention as defined by independent claim 17 as amended is neither disclosed nor suggested by Stringer et al.

Accordingly, withdrawal of the rejections of claims 1-7 and 9-21 under 35 U.S.C. 102(b) as being anticipated by Stringer(429) are respectfully requested.

8) The other prior art made of record and not relied upon has also been considered but is found to be inapposite to the invention as defined by the independent claims as amended.

Chernow et al. merely teach of, as read on col. 4, lines 24-36, embedding the exact physical location of a purchased software, the exact time and date the software was stored, the serial # of the operating system on a hard/floppy disk which stores the software, and when later the software is put to use, it will determine if parameters of the computer on which it runs agree with the embedded information, and will not run or erase itself if not being agree with.

Grantz et al. merely teach of, as read on claim 1, a method for providing a predetermined delay before commencement of a designated test period of software

product(s), and a password has to be entered by user in order to begin the test period.

9) These prior art references, whether considered individually, in combination with one another, fail to disclose or suggest the present invention as defined in the amended independent claims 1, 12, 17, that is, using the presence of the identity software or a functional equivalent thereof, with no individual protection against unauthorised use, as a precondition for the authorising software to authorise use of protected software.

10) A substitute specification in proper idiomatic English and in compliance with 37 C.F.R. 152 (a and b) is required by the Examiner in the first office action, item 11.

The substitute specification cannot be submitted now and will be submitted after this response because time is too limited.

11) Please amend the title as follows :

[Identity software] Software for restricting other software to be used by the rightful user only.

The preceding comments regarding the technical distinctions between the invention as defined in the independent claims 1, 12, 17 as amended, and the disclosures of the cited documents represent the present opinion of mine. Should the Examiner disagree therewith, it is requested that it be indicated where, in the cited documents, there is a basis for such disagreement.

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Respectfully submitted,

Ho Keung, Tse.

